UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1997/SR.9
15 August 1997

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Forty-ninth session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 11 August 1997, at 10 a.m.

Chairman: Mr. BENGOA

later: Mr. PARK

CONTENTS

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (continued)

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION:

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES;

(b) XENOPHOBIA

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.97-13332 (E)

The meeting was called to order at 10.20 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 2) (continued) (E/CN.4/Sub.2/1997/4, 5 and 37; E/CN.4/1998/3-E/CN.4/Sub.2/1997/35 and Corr.1; E/CN.4/1998/4-E/CN.4/1998/4-E/CN.4/Sub.2/1997/36)

1. Ms. SHAUMIAN (International Institute for Peace) said that progressive societies were recognized by the rights that they bestowed on their people, the normal means being to frame constitutions and legal and institutional structures to ensure that every citizen was equal and enjoyed equal opportunities. When a nation introduced systems militating against that possibility, the abuse of human rights became inevitable.

2. Shortage of time prevented her detailing her strictures on Pakistan, with its feudal social structures, religious fundamentalism and extremism and the nexus between the army and the ruling group, leading to gross violations of human rights. She expressed concern that the Sub-Commission had been addressed by a Government Minister speaking as a representative of the World Muslim Congress: it was surely wrong for a Government to speak from the platform of a non-governmental organization (NGO).

3. Mr. CHOWDHURY (Observer for Bangladesh) said that modern values had been shaped by such disparate influences as Socrates, Confucius and the medieval introduction of habeas corpus, leading to a wide variety of systems that had, none the less, to find a common basis of acceptable conduct stemming from shared beliefs. The Bangladeshi ethos, which was rooted in the past and reflected in the present, saw human rights in holistic terms, to be addressed in a comprehensive manner. Human rights were linked to the practice of democracy, respect for the rule of law, the pursuit of justice, the search for peace and the quest for development. His Government had adopted a number of measures to advance the cause of human rights. The first was the decision to establish an independent National Human Rights Commission, preparatory work for which was already in hand. With support from the United Nations Development Programme (UNDP) a project had been undertaken for the institutional development of human rights to create awareness among the common people about their rights. The participatory rural appraisal approach enabled people at the grass-roots level to identify their own problems and propose solutions. Measures to ensure easy access for rural people to facilities for the resolution of disputes were also under consideration. One proposal was to establish Grameen (village) courts, which could adjudicate at the pre-trial stage and reduce litigation. Legal aid committees had already been formed at district and field levels. The Government was also actively considering the establishment of the office of ombudsman to ensure transparency in administration and redress grievances.

4. Immediately after assuming office, the Government had taken fresh initiatives concerning the Chittagong Hill Tracts. The National Committee set up to deal with the matter, which included MPs from the Hill districts, had significantly narrowed differences between the two sides. Movement had also

been registered on the repatriation of tribal refugees from the camps in the Indian State of Tripura. Bangladesh and India were fully committed to cooperating with each other for facilitating the process. Bangladesh took pride in being a pluralist, democratic and tolerant society. It had sought to embrace all positive values across a broad spectrum. It believed in the rule of law, not rule by law. Its actions were intended to enlarge, not constrain freedom. In that context, NGOs should maintain eternal vigilance, complementing the Government's own work on human rights.

Statements equivalent to the exercise of the right of reply

5. Mr. DEMBRI (Observer for Algeria) rejected the schematic allegations regarding his country by the International Federation of Human Rights (FIDH), which repeated the wording of the report of its so-called "international inquiry", issued in June 1997. FIDH had spent six days in Algeria and had relied on anonymous testimonies and specious data which it had failed to verify.

6. FIDH was acting as a mouthpiece for an organization affiliated with it, the Algerian League for the Protection of Human Rights, whose Chairman, far from being impartial, was notorious for having promoted religious extremism. The Algerian people had not forgotten that he had been a member of the first Government after independence and a fervent supporter of a single party system. When Algeria had adopted a pluralist system in 1989, he had most opportunely become a convert to the defence of democracy and human rights. By its association with him and by entering political and partisan territory, FIDH forfeited any credibility in its allegations. It was therefore not surprising that neither in its report nor in its statement to the Sub-Commission on 6 August had there been any reference to the reforms in Algeria, the rise of pluralism and the evolution to a State governed by the rule of law and no mention of the pluralist elections in the presence of international observers or the building of a constitutional structure based on separation of powers, the sovereignty of the people and universal suffrage.

7. It was, however, a matter for surprise that unlike others, including the Officer-in-Charge, High Commissioner/Centre for Human Rights, FIDH had not expressed any condemnation of the barbarous terrorism that attacked Algerian and foreign men, women and children. Such an omission was significant and denied any authority to its views on the situation in Algeria. He wondered why FIDH, which accused Algeria of dissimulation and lies, had not at any time between its foundation in 1922 and Algerian independence in 1962 spoken out against the inhuman conditions meted out to the Algerian people during the colonial period, the special powers assumed by the colonial authorities and army, the repression, torture and extrajudicial executions committed daily between 1954 and 1962 or the internment camps in France. When FIDH answered those questions, its approach to the international protection of human rights might become clearer. Instead of having recourse to libellous denunciations and unfounded allegations it should have submitted to the United Nations treaty and non-treaty bodies to which Algeria was party documented reports on any case in its possession concerning the violation of human rights by the police. Algeria would certainly have responded to any communications by the special rapporteurs and working groups.

8. Mr. AL-MADI (Observer for Saudi Arabia) noted that the representative of the International Association for Religious Freedom had attributed to the President of Italy some declarations of a religious nature during a visit to Saudi Arabia. The visit had been an official working visit, the main objective of which had been to support and strengthen the economic, political and commercial relations between the two countries. The International Association for Religions Freedom had based its remarks on observations published by the mass media, a fact that called into question the seriousness of statements and reports made by that and other NGOs.

9. Saudi Arabia's Constitution, based on Islamic Sharia, respected and observed religious freedom. It made no objections to non Muslims practising their rites at home. The freedom of private life and the inviolability of the home were assured, in conformity with article 18, paragraph 3, of the International Covenant on Civil and Political Rights. Christians and Jews therefore had equal rights in society, as dictated by the tolerant Sharia. Saudi Arabia was willing to accept any constructive views on the matter, appropriately discussed, in an impartial and objective way. More than 5 million foreign workers living in Saudi Arabia on provisional contracts and for limited periods enjoyed all the rights of Saudi citizens, such as free education, the right to establish private schools for foreign communities, and free medical services, as well as exemption from taxes, freedom of movement, freedom to transfer funds and general security. Such a large number of workers would hardly choose to live in a country that violated their rights. Lastly, Saudi Arabia was conscious of the impressive humanitarian role undertaken by the Sub-Commission. He hoped that his clarification was sufficient to refute the allegations by the International Association for Religious Freedom.

10. Mr. DE ICAZA (Observer for Mexico) said that in its oral statement to the Sub-Commission and as well as in its written statement FIDH had claimed that there had been a serious deterioration in human rights in Mexico during the last three years, supporting its allegations by partial citations from the reports of the Committee on the Elimination of Racial Discrimination (CERD) and the Committee against Torture (CAT), while omitting the fact that those reports had recognized the effective measures taken by the Government to increase protection for human rights.

11. Mexico was fully open to international cooperation on human rights. In 1996 a mission from the Inter-American Commission on Human Rights had been received and been given every facility to carry out its programme. Mexico had submitted its periodic reports to CERD and CAT in good time. Both bodies had acknowledged the Government's cooperation. The Special Rapporteur on the question of torture was to visit the country shortly. FIDH itself, and other NGOs, had also sent missions. The growing interest of NGOs in human rights in Mexico reflected the wide-ranging debate currently taking place in that country. The Government promoted dialogue and cooperation with NGOs with a genuine concern for human rights, though some misunderstandings had occurred, particularly with regard to the issue of migrants. Administrative procedures had been improved to guarantee the safety and facilitate the work of genuine promoters of human rights. NGOs should not, however, be used by activists to achieve their own ends.

12. Contrary to what FIDH had stated, there was no pattern of gross and systematic violations of human rights in Mexico. Violations did occur in numbers, but not as State policy; the necessary mechanisms to prosecute those responsible existed. Steps had been taken to improve progress towards the rule of law and democracy. Constitutional reforms included the establishment of a new Supreme Court of Justice, with members elected by the Senate and with broad powers to decide on the constitutionality of legislation. Criminal legislation and the internal regulations of institutions responsible for the administration of justice had been improved in 1996.

13. It was surprising that FIDH claimed that there were restrictions on the exercise of civil and political rights. The international community had witnessed Mexico's efforts to improve its democracy. Federal elections a month earlier had brought in a new House of Deputies and a Mayor of Mexico City had been elected for the first time. The elections had been nationally and internationally recognized as free and fair, as had the previous elections for the Presidency. FIDH had criticized the country's economic policy for favouring inequality and social exclusion. Any restructuring or organization involved sacrifice. In order to enter world markets, Mexico had established strict fiscal and monetary discipline and undertaken a programme of economic reform, which had produced positive results: a rise in the gross domestic product, reduced inflation, a stable exchange rate and above all, an improvement in employment levels. The social situation would improve along with the economy and with increased social investment, to which the Government currently devoted 53 per cent of its spending.

14. FIDH and other NGOs had referred to the conflict in Chiapas and to what they called "militarization" there and elsewhere. The Government, however, continued to seek a just peace through dialogue, not force. The use of armed forces in Chiapas and in other parts of the country was based on the relevant legislation in order to ensure public peace and to preserve order in the face of armed gangs, the illicit arms trade and drug trafficking. Mexico respected freedom of opinion and valued the activities of NGOs and even considered occasional exaggerations to be of use, but it was concerned if they were excessive, since that could harm the credibility of such organizations, which were necessary for both democracy and human rights.

15. Mr. AL-HADDAD (Observer for Bahrain) said that some NGOs had made allegations that lacked precision and impartiality, were derived from unreliable sources and tried to exploit international organizations working for the protection of human rights. His country supported the freedom of individuals, whatever their nationality, colour or religion. Bahrain was constantly improving its record on human rights in accordance with the Charter of the United Nations, the Universal Declaration of Human Rights and other international instruments and covenants. Since 1994 his country had suffered from violence and terrorism by groups aiming to achieve their political goals and change the political regime, often supported by foreign sources. Holy places had been destroyed and people, including foreigners - three Indians and two Bangladeshis - had been killed in public places. Bombs continued to be planted in cars and shops. Those responsible for such outrages did not represent Bahrain in any way; they commanded no public support, but merely aimed to sow division.

16. Respect for human rights had improved considerably in his country; it had been agreed with the International Committee of the Red Cross that its representatives could visit prisons freely and Bahrain was also cooperating with the Commission, the Centre for Human Rights and with various special rapporteurs. Bahrain desired peace, security and tolerance. It was working to improve the standard of living for all its inhabitants, who came from many different countries and societies. A recent report from UNDP had stated that Bahrain enjoyed one of the best rates of development and growth in the Arab world. Bahrain rejected violence; tolerance and respect for others was part of its heritage. Since 1993 it had taken giant steps to involve the people in the management of the country: the Consultative Council had been set up to that end. He urged all who loved peace to denounce the violence that Bahrain had suffered. His country would not allow terrorist groups to destroy all that had been achieved; violence would ultimately be overcome.

17. Mr. DE AZEVEDO CONSTANTINO (Observer for Angola) said that the International Association of Educators for World Peace had claimed that Cabinda had been occupied by Angola and that its people had suffered flagrant and systematic violations of their human rights. There was no legal foundation under international public law for that question to be raised, since Angola had been independent since 1975 Cabinda was an integral part of the country. Its frontiers, as established at the time of independence were unalterable and the reference to self-determination was therefore inappropriate, since it applied to independence and colonial peoples.

18. Since the allegation had no legal basis, it must be of a political nature, which ran counter to the spirit of the Sub-Commission. Far from Angola's having committed flagrant and systematic violations of human rights, its efforts to comply with international human rights instruments had been applauded by various missions from the Commission and Sub-Commission and other human rights bodies. The International Association of Educators for World Peace should be reminded that the spirit of confrontation was not consistent with the Sub-Commission's methods of work.

19. Mr. MALAMBUGI (Observer for the United Republic of Tanzania) said that one of the participants in the debate under agenda item 2 had made disparaging remarks about the embargo imposed on Burundi by neighbouring countries and the role of mediators in the search for peace in that country. His Government wished to assure the Sub-Commission that it was aware of the fact that sanctions alone were not a panacea for the ills afflicting Burundi or a substitute for negotiations between the parties involved. Nevertheless, it was also aware that in the long term, and in combination with other measures, sanctions played a critical role in nudging parties to a conflict into undertaking face-to-face negotiations.

20. Over the years, sanctions had been seen to work in Zimbabwe, in Namibia, and more recently in South Africa. At the time, those calling for the imposition of sanctions on the regimes in power had been similarly bombarded with the well-worn refrain that sanctions did not work and hurt those they were designed to assist. The sanctions imposed on Burundi had the objective of nudging the regime into restoring constitutional order, by measures including the restoration of the National Assembly, and the unbanning of political parties. Though regrettable, the suffering sanctions inflicted on

innocent civilians was an inescapable fact, not only in Burundi, but also elsewhere, whether in Cuba, in the Libyan Arab Jamahiriya, or in Iraq.

21. Nevertheless, leaders of the countries that had imposed the embargo had been very conscious of its undesirable effects. Consequently, they had taken measures to match each and every step taken to resolve the conflict by the Buyoya regime, by relaxing sanctions on certain products such as medical supplies, farm implements and fertilizers, which had an adverse effect on the civilian population. The embargo would be further relaxed whenever the Buyoya regime took further steps to resolve the conflict.

22. One fact conveniently overlooked by critics of the embargo was the negative effect it had on the economies of the neighbouring countries, which were in fact the biggest losers from the unstable situation in Burundi. His own country, for example, was losing over US$ 6 million each month in revenue from transit trade to Burundi. In addition, since 1993 it had given asylum to over 400,000 refugees from Burundi, in addition to the 300,000 from the pre-1993 era who were still in camps in the United Republic of Tanzania. Nonetheless, it regarded that loss in revenue as a necessary sacrifice that it would continue to make until a durable solution to the problem was found. No amount of criticism would divert it from that goal.

23. Insofar as it related to the former President of the United Republic of Tanzania, Mwalimu Julius Nyerere, the comment by one expert that the embargo served the interests of international mediators who did not want to lose face was most unfortunate. He was confident that those aware of events in Africa and of President Nyerere's role would join him in dismissing that particular comment with all the contempt it deserved. A more constructive approach would be for critics who wished Burundi well to join in the efforts to assist the Burundi in resolving their problems, rather than disparaging African initiatives to solve African problems. Such patronizing attitudes were more appropriate to the 1880s than to the dawn of the twenty-first century.

24. Mr. EGUZ (Observer for Turkey) said that several NGOs had voiced unfounded allegations concerning Turkey under agenda item 2. Significantly, those allegations had referred only to Turkish citizens of Kurdish origin, and nothing had been said on the question of Kurdish Workers' Party (PKK) terrorism. Turkey was a unitary State, and a secular, pluralistic democracy based on the rule of law. It had a multiparty system under which an orderly transition of power took place by free and fair elections. More than 20 political parties were currently active in the political arena. Turkish democracy was based on the separation of powers: an independent legislature and judiciary were the pillars of its political system. The media were varied, free and vibrant - more so than in many other democracies.

25. Turkey had been struggling with the scourge of terrorism in its most relentless and repugnant form waged by a Marxist-Leninist terror organization known as PKK, whose declared aim was the destruction of the territorial integrity and political unity of Turkey and its ultimate dismemberment. Since 1984 PKK terrorists had killed 4,276 innocent civilians, including 152 teachers and 29 religious leaders, showing no mercy even to babies, women and the elderly. Almost 90 per cent of those killed had been Turkish

civilians of Kurdish origin, whom it claimed to represent. In the same period, PKK had attacked and destroyed schools, health facilities, factories, petrol stations and farms in the south-east of Turkey.

26. Listening to the unfounded allegations made by those NGOs, one gained the false impression that a problem existed between the Turks and Kurds in Turkey. That was totally untrue. There were 26 distinct ethnic groups in Turkey, and all Turkish citizens, irrespective of their ethnic origin, lived together in peace and harmony and were active in every walk of life. No group was forbidden to use its language or to enjoy its traditions. The State forbade only complicity with terrorism aimed at the destruction of the country's territorial integrity and political unity.

27. Having been subjected to a vicious terrorist campaign, Turkey was determined to bring terrorism to an end. In its quest to eradicate PKK terrorism, it took the utmost care to conform with the rule of law and international human rights standards. At the same time, in parallel with that unrelenting fight, the Turkish Government continued its endeavours to move resolutely on a comprehensive human rights reform programme.

28. Mr. SHEN Yongxiang (Observer for China) said that observers for various NGOs had, as so often in the past, accused the Chinese Government of human rights violations in Tibet. He would not waste the Sub-Commission's time by refuting those unfounded charges one by one. China was a unified country made up of 56 ethnic groups. The Government had adopted a series of measures to promote and protect the human rights of minority peoples. All those measures proceeded from two principles: first, the principle of equality, whereby all the rights and freedoms granted to Chinese citizens under the Constitution and legislation were enjoyed on an equal footing by all its minority nationalities without exception; and secondly, the principle of special protection. In order to guarantee the right of minority peoples to handle their national affairs independently, and to secure better protection and development of their cultural identity, the Government applied a system whereby autonomy was granted to regions with a high concentration of minority nationalities. Those measures and principles had won the support of most minority peoples, including the Tibetan people.

29. Harmonious coexistence, mutual assistance and joint efforts to ensure the prosperity of the motherland were aims shared by all China's ethnic groups. A very few people resorted to fabrication, provocation and the dissemination of ethnic hatred in an attempt to undermine China's national unity and divide its territory. All such attempts were doomed to failure.

30. Mr. MAZAKIAN (Observer for Armenia) said that his delegation had studied the appalling letter from the Ambassador of Azerbaijan dated 8 August 1997 and contained in document E/CN.4/1997/139. It strongly denied the content of that document, a prime example of the Azerbaijani propaganda machinery designed to discredit Armenia, Nagorny Karabakh and the entire peace process. To mislead the Sub-Commission with such defamatory and false statements was highly unethical.

31. Nine years previously, when the people of Nagorny Karabakh had been arguing by peaceful means for their right to self-determination, the

Azerbaijani authorities had organized armed mobs that had begun pogroms against Armenians in the Azerbaijani city of Sumgait. After further pillage and killings, in the spring of 1991 the leaders of the current Azerbaijani regime, assisted by the Soviet army, had organized the deportation of the Armenian population of Nagorny Karabakh and the surrounding 24 regions. There had followed a cycle of large-scale Azerbaijani military offensives designed to produce a military solution to the conflict by annihilating the population of Nagorny Karabakh, mirroring the similar fate experienced by the people of that region in the first two decades of the century. Against that historical background, his delegation was convinced that the best solution would be to restore the fundamental and lawful rights of the 250,000 Armenians living in Nagorny Karabakh by addressing their constitutional demand for the right to self-determination.

32. Mr. MOUSSAIEV (Observer for Azerbaijan), responding to the statement made by the Observer for Armenia, said that many myths and legends surrounded the history of Armenian-Azerbaijani relations, but that one of the most cynical of those myths, which was used to justify aggression against Azerbaijan and the occupation of part of its territory, was the myth of the conflict between the Armenian community of Nagorny Karabakh and the Government of Azerbaijan, and the claim that the Republic of Armenia had no hand in the occupation of those Azerbaijani lands. In 1989, in violation of all norms and principles of international law, the Parliament of Armenia had taken the unprecedented decision to annex the Nagorny Karabakh region, part of the territory of another State. It was legitimate to ask whether a supreme legislative body could decide to annex another State's territory without having territorial claims on that State. It was also to be noted that that decision had been implemented by the National Army of Armenia, using mercenaries and terrorist groups.

33. In a series of resolutions the United Nations Security Council had stressed the need to respect the sovereignty, territorial integrity and inviolability of Azerbaijan's internationally recognized borders, and the inadmissibility of using force to acquire that territory. It had also demanded the immediate, full and unconditional withdrawal of all Armenian forces from the occupied areas of Azerbaijan. The Organization for Security and Cooperation in Europe (OSCE), the Council of Europe and other international organizations had also stressed that the political settlement of the conflict must be based on the principles of territorial integrity and inviolability of Azerbaijan's borders. The question was clearly not one of exercise of the right to self-determination, but of violation of article 2 (4) of the Charter of the United Nations. Under international law, ethnic minorities as such did not enjoy a right to self-determination, which was a right of peoples.

34. Finally, he wished to set the historical record straight by informing the Sub-Commission that Karabakh as a whole as well as its highlands had always been an integral part of Azerbaijan. The resettlement of Transcaucasia by Armenians had begun only in the first half of the nineteenth century.

35. Mr. MAZAKIAN (Observer for Armenia) said that the statement just made by the Observer for Azerbaijan totally contradicted the facts. Azerbaijan had recently embarked on a vicious and mean-spirited propaganda campaign based on

misinformation and unfounded accusations. That action should be condemned, as it contradicted all international norms of behaviour and ethical principles. His delegation regretted the fact that the Azerbaijani delegation had chosen to embark on such a destructive approach, at a time when the co-chairmen of the OSCE and its Minsk Group had decided, after an interruption of more than five months, to resume the negotiation process. Instigating provocation and spreading false information was not the way to reflect the spirit of compromise and confidence-building that Azerbaijan claimed to support. His delegation would like to believe that the statement just made did not reflect the true intentions of the more moderate leadership of Azerbaijan. It called on the Azerbaijani delegation to renounce provocative statements and instead to concentrate on the real issues of the agenda.

36. The CHAIRMAN said that the Sub-Commission had concluded its consideration of agenda item 2.

COMPREHENSIVE EXAMINATION OF THEMATIC ISSUES RELATING TO THE ELIMINATION OF RACIAL DISCRIMINATION

(a) SITUATION OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

(b) XENOPHOBIA (agenda item 3) (E/CN.4/Sub.2/1997/6 and 31; E/CN.4/Sub.2/1997/NGO/3 and 4).

37. Mrs. WARZAZI said that she had not taken the floor on agenda item 2 because many experts, and in particular Mr. Khalifa, had expressed her views more eloquently than she could have done herself. She commended NGOs and observers for their contributions to the debate on that item, which had greatly eased the experts' task.

38. Introducing agenda item 3, she said that problems associated with immigration were of great concern to host countries and countries of origin alike. The former, invoking their economic problems, expelled a substantial number of migrant workers who had contributed to their economic prosperity and had taken on unpleasant or dangerous jobs that nationals wishing to climb the social ladder had refused to undertake. Illegal migrants - those without official papers - encountered the barriers thrown up around European and other countries, after undertaking arduous journeys usually organized by traffickers whose main aim was to strip them of their possessions and leave them defenceless.

39. As for the countries of origin, they were mired in economic and social difficulties or internal and external conflicts: unemployment, drought, massacres or the threat of armed conflict that drove thousands to seek work or sanctuary in safe and peaceful countries. The authorities were powerless to control those exoduses. Since 1972 the international community had considered the question, but without much success, for in some countries the plight of migrant workers was going from bad to worse. Racism had reached crisis proportions, leading to arson, armed attacks and murder. That extreme manifestation of racism had led the General Assembly to recommend the holding of the seminar on Immigration, Racism and Racial Discrimination held in connection with the Third Decade to Combat Racism and Racial Discrimination.

The seminar had been held at the Palais des Nations, Geneva, from 5 to 9 May 1997, and had occasioned an extremely rich debate, with a particularly valuable contribution from NGOs, affording her considerable consolation for the frustration she had experienced during debates on migrant workers in the Sub-Commission in recent years.

40. The proceedings of the seminar were excellently reflected in the report drafted by its rapporteur. The final conclusions broke new ground, reflecting more faithfully the situation of immigrants and proposing realistic and feasible solutions. They were three in number. First, if migratory flows continued to increase, that was because poverty in the third world was increasing, and also because, in spite of the crisis they invoked, the developed countries required additional manpower. Secondly, immigration should not be perceived as a problem, but rather as a phenomenon affecting, inter alia, persons obliged to leave their own countries. Thirdly, the question of migration could not be dissociated from the process of globalization of the world economy. In that connection, the seminar had revealed the blatant contradiction between free movement of goods and the increasingly draconian trend towards restricting the movement of persons.

41. After drawing attention to the reasons for the disparity in development between North and South, the seminar had concluded that stabilization of populations and individuals in their countries would depend on the formulation of a genuine policy for development and cooperation at international level. It had affirmed that immigration could bring substantial benefits to the host countries and societies, which were enriched not only economically, but also socially and culturally. That conclusion should be drawn to the attention of public opinion and host societies, most of whom regarded migrant workers merely as usurpers of jobs and recipients of social benefits - which, as the debate had shown, were not in fact automatically accorded to migrant workers even though they paid their contributions.

42. Similarly, their cultural contribution was not given its due, even though all studies and forecasts affirmed that the future of nations lay in interbreeding and a mix of races and cultures.

43. When members of a host society found themselves in direct contact with immigrants, as had happened following the murder of the Moroccan girl Loubna Ben-Aissa in Belgium, they realized the extent of their misconceived prejudices. Dialogue between communities was thus imperative, as it made a positive contribution to changing preconceived attitudes and encouraged peaceful coexistence. A public opinion poll carried out by Princeton Survey Research Associates in June 1997 had found that persons who had regular contact with new immigrants were more accommodating than in the past. Forty-five per cent of Americans questioned thought that immigrants had a positive impact on their country, while 42 per cent took the opposite view. Those figures were an improvement on the period 1993-1995, during which 60 per cent of the American public had thought that migration had an adverse effect on the rest of society and should be reduced.

44. The seminar's recommendations included one addressed to receiving States, whose approach to integrating immigrants must guarantee the preservation of their cultural identity. The seminar had also recommended the launching of a world information and education campaign supported by the

Governments concerned, intergovernmental organizations and NGOs, to encourage States to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

45. Another recommendation concerned remedies available to victims of racism, and also to migrants without official papers, enabling them to report crimes and violations of their rights to the police authorities and to act as witnesses during court proceedings.

46. An innovative recommendation to come out of the seminar was the request to Governments to review the question of granting dual nationality to immigrants; such action would help to integrate immigrants and preserve their culture and begin to break the vicious circle of intolerance. The seminar had emphasized the usefulness of consultations with associations representing immigrants, while recognizing that the protection of their rights should not lead to further separation of families or disregard the negative effects of the formation of immigrant ghettos. It had expressed particular concern about the situation of women. It had also been recognized at the seminar that the 1503 procedure could be an effective means of applying pressure to States that failed to react to flagrant violations of the human rights of immigrants.

47. The situation of migrant workers had changed little in the quarter of a century since the Sub-Commission had first put forward the idea of a convention to protect their rights. Indeed, it might be said to have worsened, as racism had become mingled with hate, and was even encouraged by some politicians. It was the duty of Governments to be severe towards those who stirred up violence, and to create conditions in which mutual respect and understanding, not merely tolerance, could exist within communities. If human rights were to assume their full significance, the international community must be persistent and vigilant in pursuing the long and at times difficult process of eradicating racism, hate, violence and segregation.

48. Ms. McDOUGALL said that the recent letter from the Chairman of the Committee on the Elimination of Racial Discrimination to the Chairman of the forty-eighth session of the Sub-Commission (E/CN.4/Sub.2/1997/31) contained several interesting proposals that the Sub-Commission could usefully explore, particularly the suggestions that the Sub-Commission should explore the effectiveness of affirmative action programmes and the rights of non-citizens. She would, however, like to focus on the issue raised by the Committee, of whether references to race should be removed from national and international legal texts on the grounds that using the concept of race lent gratuitous support to those who believed in the superiority of certain races or ethnicities. She noted that the Committee had also lamented the incredible claim by some States that there was no racial discrimination in their societies.

49. In the United States of America, there had been a call to reformulate questions pertaining to race and ethnicity in the census, which was taken every 10 years. Recent versions of the census had asked respondents to identity themselves as belonging to one of four groups and one of two ethnic categories. However, in recent years it had become clear that the population did not fit neatly into such structured categories. After careful study of the alternatives, including the elimination of all such classifications or the

inclusion of a new multiracial category, the unanimous recommendation was that those basic categories should be retained but that individuals should be allowed to choose more than one racial category in the year 2000 census.

50. From a global perspective, vast population movements in the post-colonial era had created societies of ever greater diversity. In places where racial diversity was linked to other forms of social or economic crisis, racial distinctions were becoming more rather than less significant. While the notion of race might have little scientific or biological basis, it did have a powerful social and cultural content that was often distinct from issues of colour, ethnicity or national origin. Moreover, race was not a static or unitary concept. It was necessary to continue using the concept as a classification for data collection and analysis, for without acknowledging and dealing with the social construction of race in societies it became difficult to attack the reality of racial discrimination and patterns of racial disparities. As long as race constituted the fault lines for the distribution of poverty and wealth, hierarchy and exclusion power and subordination, the classification of race would be required if those disparities were to be remedied. It had to be recognized that population data had to be collected and then disaggregated along racial and ethnic lines to guarantee that States fulfilled their international obligations to eliminate the direct and indirect manifestations of racial discrimination while ensuring basic civil, political, economic, social and cultural rights for all without distinction. Such information was particularly crucial in measuring indirect discrimination and served as a baseline for remedial affirmative action programmes.

51. The Committee on the Elimination of Racial Discrimination had itself noted the need for States parties to the International Convention for the Elimination of All Forms of Racial Discrimination to provide relevant information on the demographic composition of populations (General Recommendation IV, HRI/GEN/1/Rev.1) and recommended that such information should generally be based on self-identification by the individuals concerned (General Recommendation VIII, HRI/GEN/1/Rev.1). The Sub-Commission should therefore strive to include in its own work disaggregated data on the extent to which discrimination or violations of economic, social or cultural rights in a given society might be correlated with racial, ethnic or gender distinctions, in contravention of well-established international norms.

52. Turning to the question of the convening of a third world conference to combat racism and racial discrimination, xenophobia and related intolerance, she noted that the Economic and Social Council, at its most recent session, had taken note of resolution 1997/74 of the Commission on Human Rights and had called on the General Assembly to convene such a conference not later than the year 2001, and had recommended that the Commission should act as the preparatory committee for the conference. She believed that the Sub-Commission should be centrally involved in shaping the content and methods of work of such a world conference, and should consider how best to do so. In her view, the conference should act as something of a wake-up call, to alert member States to the fact that the principal objectives of the two Decades for Action to Combat Racism and Racial Discrimination had not been attained. Its effectiveness would be enhanced by the meaningful participation of non-governmental organizations, which would emphasize the need for action

at the national level to support actions taken at the international level. The conference should also seek to highlight the increasingly violent nature of racial discrimination and the impact of the multiple barriers faced by those who existed at the intersection of discrimination based on race, gender and extreme poverty.

53. Ms. FARHI (International Council of Jewish Women) expressed deep concern at the growing exploitation by racist, xenophobic and other anti-social groups of the most powerful medium of communication thus far developed, the Internet. The use of the Internet by such groups to promote their neo-Nazi or radical nationalist and racist ideology, to access ideas and resources and to vilify their targets had been extremely well documented and described in a research paper published by the Institute for Jewish Policy Research in the United Kingdom.

54. The far-right race-hate and xenophobic material used on Internet was particularly dangerous since it mainly reached a vulnerable young population whose technological and communications skills marked them as potential future leaders in society. Facilities afforded to racist groups to access the Internet by non-racist free-speech activists in some United States universities were causing growing concern. Those activists had become hosts to Holocaust denial material. Holocaust denial was the link that bound together many far-right organizations, the pseudo-academic Institute for Historical Review in California a well-known promoter of Holocaust denial had a major presence on the Internet.

55. In Sweden, in 1993 intense revisionist propaganda coupled with vehement anti-semitism had been published on the Fido Net BBS. In Germany, the Thule network had been developed specifically to allow far-right extremists and neo-Nazi groups to communicate with one another. In the United States of America and Europe, Cyberspace was said to be used by the far-right to act as an international contact point. Needless to say, the Internet was being used to publish anti-semitic "hate" articles and to publicize details of sophisticated racist computer games.

56. The potential of the "information super-highway" must not be put at the disposal of dangerous groups spreading anti-humanistic and violent theories. That hate material amounted to a denial of the most fundamental right of the human person, the right to physical and spiritual integrity. Cyberspace was not in a different world; it was part of society and society could not survive without minimum standards of ethical behaviour. Consequently the Internet should be regarded no differently from other means of disseminating ideas. The provisions of the International Convention on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, which regarding incitement to racial hatred evidently also applied to it.

57. There was a need for an interim Internet policy and a code of good practice, pending the development of a more comprehensive policy to determine what could legitimately be accessed on computer. Institutions could, for example, adapt their existing policies on race and discrimination and extend them to cover the Internet. In the long term, it would be highly desirable to establish an international body to monitor the dissemination of racist and

other harmful material and to investigate complaints with the help of national bodies, and for Governments to evaluate seriously the scope and gravity of the abuse of the Internet by destructive elements of society.

58. Mr. Park took the Chair.

59. Mr. KIPKYACHARIAN (Movement against Racism and for Friendship among Peoples), speaking about immigration policy in the countries of the European Union, said that none of those countries had yet taken any steps to accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. He hoped that the principle of non-discrimination, affirmed at the Union's recent intergovernmental conference in Amsterdam, would be speedily implemented and so put an end to the precarious situation of non-citizenship in which over 10 million people found themselves. Perhaps migrants could be given the status of citizens of Europe or all the countries of the Union could adopt the International Convention. The distinction drawn by the Union between racism and immigration was difficult to maintain when xenophobia, mostly directed at migrant workers, was so closely linked to racism. He added that racism, in the guise of ethnic tension, was not restricted to Europe, but was to be found throughout the world where historical and structural inequalities were pronounced.

60. Any positive outcome of the European Year against Racism was due in large measure to the commitment of anti-racist non-governmental organizations, which were united in calling on the Union to draw up anti-racist legislation, to reform laws on the right to asylum, in accordance with the definitions of international law and the requirements of the modern world, and to follow a non-exclusive policy on citizenship. He commended recent measures against racism taken in several countries of the Union, such as France, which were a hopeful sign, even though unscrupulous politicians were becoming decidedly more populist in their attempts to exploit xenophobia for political ends.

61. He welcomed the call by the Commission on Human Rights for the convening of a third world conference to combat racism and racial discrimination xenophobia and related intolerance, which should be prepared for by a series of regional conferences without fear of what was normally termed "politicization", as any debate on racism was bound to raise awkward questions. He suggested that an excellent starting point for analysis would be the words of Albert Jacquard: "A racist is someone whose anger is misplaced". The most beneficial discussion at the world conference would deal with reality, such as why anger arose, rather than generalities.

62. He urged the Sub-Commission to adopt a resolution supporting the principle of holding regional preparatory conferences, with the emphasis on their practical scope. Pitiful attempts to justify the neo-fascist philosophy that no progress was conceivable without the existence of inequality had spread from the United States and the United Kingdom to France, where racial inequality was openly affirmed by politicians of the far right. The eradication of racial discrimination was still some way away, but much could be done in the meantime to ensure that it came to be perceived as an absurdity.

63. Mr. CHISHI SWU (Society for Threatened Peoples) said he was pleased to report a positive development in the struggle of the Naga people, who had been asserting their right to self-determination for the past 50 years. The Indian leadership had declared its intention to seek a political solution to the Indian-Naga issue and the Indian Government and the National Socialist Council of Nagaland had agreed that talks should be held without conditions, at the prime ministerial level and at any venue outside India.

64. The Society for Threatened Peoples and the Naga people, who firmly believed in the doctrine of non-violence, welcomed the statesmanlike approach of the Indian leadership which had opted for dialogue rather than continued confrontation. A ceasefire agreement had come into effect on 1 August 1997.

65. The Nagas expressed profound gratitude to the Unrepresented Nations and Peoples Organization (UNPO) which had helped them in their quest for a peaceful solution. They appealed to the international community to support the peace process so that the Naga people would never again be the victims of atrocities and have war forced upon them.

66. Mr. ZEPHYRIN (Survival International) appealed for the protection of the Batwa pygmy minorities living in the war-torn Great Lakes region. The Batwa were a disappearing people who were unable to plead their own cause because of ignorance and extreme poverty. Many had been killed in the recent ethnic conflicts in Rwanda, Burundi and the Democratic Republic of the Congo (former Zaire) or used as scapegoats by politicians. The pygmy population of those three countries amounted to no more than 120,000 people, some living in the forest as their natural environment and others driven there without compensation by other communities.

67. During the 1994 conflict in Rwanda, some 10,000 Batwa had been killed and 3,000 imprisoned. Following an appeal at the forty-eighth session of the Sub-Commission, the Rwandese authorities had begun to cooperate with the Batwa minority associations but none of the pygmies imprisoned after the genocide had yet been given a court hearing.

68. In Burundi, 5,000 out of a total population of some 20,000 pygmies had lost their lives through war, poverty, lack of proper hygiene, periods spent in quarantine and marginalization. At the forty-second session of the Sub-Commission in 1990, the International League for the Rights and Liberation of Peoples had made an appeal for the Batwa of Burundi, but there had been no response, either by the Burundi authorities or by international organizations.

69. In the Democratic Republic of the Congo, which had a population of some 80,000 pygmies (known as Mbuti), many had been killed and their possessions plundered.

70. It was time to devise a strategy to protect the pygmy minorities and to prevent further discrimination, killings and abuse. He invited the Chairman of the Sub-Commission and Mrs. Daes, Chairperson of the Working Group on Indigenous Populations, to visit the minorities concerned in Rwanda.

71. Mr. Chong Kil MYONG (Liberation) said that Koreans in Japan were subjected to systematic racial discrimination by the Japanese Government.

After the liberation of Korea from Japanese colonial Government in 1945, Koreans who had been forced to migrate to Japan tried to recover the right to use the Korean language and learn about Korean history and culture by establishing independent schools, of which there were currently more than 140 in Japan. Although their curriculum was the same as that of their Japanese counterparts except for extra lessons in Korean language and history, the Japanese Ministry of Education refused to recognize the schools and to accord them the same rights as Japanese schools and schools for other aliens. Graduates from Korean schools were barred from taking entrance examinations for Japanese State-run universities and other institutions.

72. The Korean education programme was denied the official subsidies to which it was entitled. Contributions to school building and repair projects, which should normally be exempt from taxation, were also denied preferential fiscal treatment. As a result, the reconstruction of the dilapidated Tokyo Korean Middle and High School, the biggest Korean school in Japan, was imposing a heavy financial burden on the Korean community.

73. The Government's antagonistic policy had spread anti-Korean sentiment among some sections of the Japanese public. There had been more than 160 cases of violent assault on Korean girl students wearing traditional Korean dress.

74. Although Japan had ratified the International Convention on the Elimination of All Forms of Racial Discrimination, it had never taken any action to compensate for its past war crimes and to end discrimination against Koreans in Japan. Liberation and the Construction Committee of Tokyo Korean Middle and High School urged the Sub-Commission to pay close attention to the situation of the Korean community in Japan and called on the Japanese Government to abandon its discriminatory policy.

75. Ms. TANAKA (International Movement against All Forms of Discrimination and Racism) said she was encouraged by the decision of the new French Government to review the immigration law enacted by the previous Government. She was discouraged, however, by reports of deaf Mexicans being lured to the United States to labour as street vendors.

76. Her organization, which was focusing on the issue of women migrant workers, had organized a round table on the subject during the fifty-third session of the Commission on Human Rights. The Special Rapporteur on violence against women had noted on that occasion that migrant women were doubly marginalized, as women and migrants, and were often also subjected to racism and other forms of discrimination. On the issue of violence against female migrant workers, she had said that the international community had recently made it clear that States had a duty to take preventive action against such violence committed by private persons.

77. In June 1997, the Churches' Commission for Migrants in Europe and the Friedrich Ebert Stiftung had organized an experts meeting on "Black and migrant women in Europe: access to and mobility within the labour market and decision-making structures". Emphasis had been laid on the role of migrants

themselves and migrants' organizations in presenting the community with positive examples and role models in order to change negative public attitudes.

78. A Philippine organization in the Netherlands reported that the "au pair" system was being abused by host families. Au pairs were often obliged to work 60- or 70-hour weeks and were not covered by labour law because no work contract had been signed.

79. The situation of women migrant workers had not so far been discussed in depth in connection with racism and racial discrimination. Her organization therefore welcomed a recommendation, adopted in May 1997 by the participants in a Seminar on Immigration, Racism and Racial Discrimination held in connection with the Third Decade to Combat Racism and Racial Discrimination, concerning the need to give particular attention to female migrant workers. It was regrettable, on the other hand, that the Committee on the Elimination of Racial Discrimination (CERD) had not been sensitive to gender issues despite the recommendation by the persons chairing the human rights treaty bodies in September 1996 that treaty bodies should consider the gender implications of each issue discussed under their respective instruments (A/51/482). At that meeting, the Chairman of CERD had transmitted the majority view of his Committee, only two of whose 18 members were women, that it was for the Committee on the Discrimination of All Forms of Discrimination against Women (CEDAW) to deal with cases of racism against women. While her organization supported most of the topics proposed by CERD for study by the Sub-Commission (E/CN.4/Sub.2/1997/31), it recommended that the issue of double discrimination through a combination of racist and sexist behaviour should be studied jointly by members of the Sub-Commission, CERD and CEDAW.

80. Ms. ALI (Afro-Asian Peoples' Solidarity Organization) said that groups, often with weapons to back their views, had recently been articulating ideologies which sought to justify discrimination on grounds of creed and religion. Discrimination with violent overtones, based on tribal, ethnic and religious intolerance, was growing. The current fighting in Afghanistan had a strong tribal and ethnic dimension. Terrorist groups owing allegiance to one religion sought to destabilize societies where other religions and cultures predominated.

81. Democracy and secularism must be strengthened as the most effective bulwark against discrimination, which was often practised by those who had never believed in true democracy or who questioned its tenets because they failed to fulfil their own aspirations. Discrimination in South Asia was at its worst in areas where democracy had not put down firm roots. In Pakistan, for example, there was marked institutional, constitutional and legal discrimination against certain groups such as the Ahmadiyah, who had been declared non-Muslims, and the Mohajirs, who were persecuted on account of their distinct cultural identity.

82. The extremist armed groups who killed and pillaged in Jammu and Kashmir were also motivated by intolerance of otherness. Harmonious coexistence, the essence of the South Asian creed, was anathema to the armed groups who sought to destabilize the countries of the subcontinent.

83. Well-funded and organized education programmes were needed to inculcate ideas of interdependence and coexistence. The NGO community must play its part through constant interaction both with the oppressed and their oppressors. Moreover, the education programme must be given teeth through a system of international censure. An enlightened society could only be achieved if the international community set about educating those Governments whose very constitutions and legal and institutional structures legitimized policies of discrimination.

84. Ms. JOICE (International Progress Organization) said that racial discrimination stemmed from a variety of economic, social and cultural causes. Education failed to lay adequate emphasis on the fact that racial differences did not make one people superior to another. Nations that had formerly prided themselves on being a melting-pot of civilizations were currently in the forefront of attempts to restrict the free flow of people. Economic fears were given racial overtones by references to a rising tide of immigration. Newcomers were seen as a threat to the established - and by implication superior - way of life. Xenophobia was spreading at an alarming rate and many advanced countries were the worst offenders in the application of selective procedures to outsiders. Even the granting of tourist visas depended increasingly on the colour of a person's skin or the size of his wallet.

85. A majority of the advanced countries had entered reservations to the International Convention on the Elimination of All Forms of Racial Discrimination. Issues of domestic politics and economics had begun to take precedence over human values. In many poor developing countries, discrimination on the basis of caste, creed and colour was rooted in ignorance and tradition. Such prejudice could be eliminated through education and economic development. But in the developed countries, discrimination seemed to be rooted in the desire to deny others a share in the cake of prosperity and it was easier to deny admission when the persons concerned were culturally, racially or ethnically different. The treatment meted out to visa applicants from developing countries in the embassies of the advanced countries showed the extent of their commitment to the elimination of racial discrimination. An acknowledgement of that situation by champions of human rights, including the Sub-Commission, would be a first step towards remedying the situation.

The meeting rose at 1 p.m.